

**In the Matter of W.M.P. Security Service Company.**  
Case AO-300

December 4, 1992

**ORDER DENYING PETITION FOR  
ADVISORY OPINION**

BY CHAIRMAN STEPHENS AND MEMBERS  
DEVANEY AND RAUDABAUGH

On June 8, 1992, the Board issued an Advisory Opinion advising the parties in the above proceeding that the Board would assert discretionary jurisdiction over W.M.P. Security Service Company, the Employer, under its current standards, but that it was unable in that proceeding to advise whether the Employer was within the jurisdiction of the Act because Section 102.98(b) of the Board's Rules provides that petitions for an advisory opinion on such issues may only be filed by a state or territorial agency or court. *W.M.P. Security Service Co.*, 307 NLRB 1479 (1992).

Thereafter, on October 14, 1992, the Hawaii Labor Relations Board (HLRB), the state agency involved in the prior proceeding, filed the instant Petition for Advisory Opinion with the Board. The petition specifically requests that the Board now issue an opinion on the jurisdictional issue which the Board had previously declined to address in response to the earlier petition for advisory opinion that was filed by the Employer.

Having duly considered the matter, we deny the HLRB's petition for an advisory opinion. Section 102.99 of the Board's Rules, in relevant part, provides as follows:

(b) A petition for an advisory opinion, when filed by an agency or court of a State or territory, shall allege the following:

. . . .

(4) The general nature of the business involved in the proceeding and, where appropriate, the nature of and details concerning the employing enterprise.

(5) The findings of the agency or court or, in the absence of findings, a statement of the evidence relating to the commerce operations of such business and, where appropriate, to the nature of the employing enterprise.

Here, although the HLRB's petition sets forth the general nature of the Employer's business (performing security and guard services at the U.S. Naval Air Station at Barbers Point, Hawaii), it fails to set forth any relevant findings or evidence relating to whether the Employer is exempt from the jurisdiction of the Board under the standards set forth in *Res-Care*, 280 NLRB 670 (1986). Nor was any such evidence submitted by the parties in response to the HLRB's petition. Indeed, none of the parties filed any statement whatsoever in response to the HLRB's petition, notwithstanding that they were notified of their right to do so.<sup>1</sup>

Accordingly, as the present record is inadequate for the Board to issue the requested opinion, the HLRB's Petition for Advisory Opinion is denied.

<sup>1</sup> Cf. *St. Paul Ramsey Medical Center*, 291 NLRB 755 (1988) (briefs filed by the employer and the union set forth relevant facts which were essentially undisputed); *University of Vermont*, 297 NLRB 291 (1989) (briefs filed by the employer, the union, and the State set forth relevant facts which were essentially undisputed); and *Correctional Medical Systems*, 299 NLRB 654 (1990) (state agency had already conducted a hearing and issued relevant factual findings which had been upheld by the state court).